IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.817 OF 2007

Taniguchi Consulting Engineers Company Limited ...Petitioner

Versus

Videocon Industries Limited ...Respondent

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Mr.Amit Vyas i/b Rajani Associates for Petitioner.

Mr.R.D.Soni with Mr.M.A.Sayed i/b Ram & Co. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 19, 2007.

P.C.

1. Preliminary objection has been raised on behalf of the Respondent Company that the statutory notice sent by the Petitioner was not on the registered address of the Respondent Company. According to the Petitioner, however, the Petitioner sent the statutory notice on the registered office address of the erstwhile Videocon International Limited with whom the Petitioner had entered into the Memorandum of Understanding, on

the basis of which the present claim is founded. It is, however, not in dispute that the said Videocon International Limited later on merged with Videocon Industries Limited, whose registered address is entirely different. If it is so, the Petitioner was expected to serve the Respondent Company Videocon Industries Limited on its registered address.

2. Counsel for the Petitioner, to buttress his submission, would rely on the decision of the Madras High Court in the case of **Indian Oil Corporation Ltd. vs. NEPC India Ltd. reported in 114 Company Cases 207**, in particular, Paragraph 33 of the reported Judgment. However, the observations in the said Judgment will have to be understood in the context of the fact situation of that case. The settled legal position, however, as rightly pointed out by the Counsel for the Respondent is expounded by the Division Bench of our High Court in the case of **N.L.Mehta Cinema Enterprises (P.) Ltd. vs. Pravinchandra P.Mehta reported in 1991 (Vol.70) Company Cases 31**.

3. Having realised the difficulty, Counsel for the Petitioner submits that in that case, the Petitioner be permitted to issue fresh notice to the Respondent Company on the stated registered office address of the Respondent Company.

4. Accordingly, this Petition is allowed to be withdrawn with liberty as prayed. All questions on merits are left open to be considered at the appropriate stage.

A.M.KHANWILKAR, J.